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11 **UNITED STATES DISTRICT COURT**  
12 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

13 MUNCHKIN, INC., a Delaware  
corporation,

14 Plaintiff,

15 v.

16 LUV N' CARE, LTD., a Louisiana  
corporation, and ADMAR  
17 INTERNATIONAL, INC., a Delaware  
Corporation,

18 Defendants.

19 Case No. 13-cv-7228-ODW-AGR

Honorable Otis D. Wright

**JOINT RULE 26(f) REPORT**

**SCHEDULING CONFERENCE**  
**Date: January 27, 2014**  
**Time: 1:30 p.m.**  
**Courtroom: 11**

Date Action Filed: September 30, 2013

1 Plaintiff Munchkin, Inc. (“Munchkin”) and Defendants Luv n’ care, Ltd. and  
2 Admar International, Inc. (collectively “LNC”) hereby submit the following Joint  
3 Report pursuant to Rule 26(f) of the Federal Rules of Civil Procedure, Local Rule  
4 26-1, and this Court’s standing Scheduling Conference Order.

5 **I. DISCLOSURES PURSUANT TO FED. R. CIV. P. 26(f)**

6 **A. Synopsis of Principal Issues**

7 The parties are competitors in the infant and toddler products market.  
8 Munchkin’s Complaint alleges a single claim for infringement of United States  
9 Patent Number 6,292,962 (the “‘962 Patent”) as a result of LNC’s alleged making,  
10 using, selling, offering to sell and/or importing infant blankets with  
11 teether/pacifiers and/or by indirectly infringing the ‘962 Patent. In response, LNC  
12 has denied Munchkin’s single claim and has asserted affirmative defenses of  
13 failure to state a claim, lack of jurisdiction, lack of standing, statute of limitations,  
14 lack of infringement, invalidity, unclean hands, inequitable conduct, laches  
15 equitable estoppel, collateral estoppel, waiver, acquiescence, and lack of damages.

16 **B. Initial Disclosures Pursuant to FRCP 26(a)(1)**

17 The parties do not believe any changes to the disclosures ordered by FRCP  
18 26(a)(1) are necessary. The parties have agreed to exchange initial disclosures  
19 pursuant to FRCP 26(a)(1) on January 24, 2014.

20 **C. Subjects on Which Discovery May Be Needed**

- 21 • The ‘962 Patent and its prosecution history and any associated prior  
22 art;
- 23 • LNC’s accused product, including associated product development  
24 documents and sales figures;
- 25 • Documents in support of the parties’ respective damages positions;
- 26 • Subjects identified in the Rule 26(a) disclosures of any of the parties  
27 to this Action;

- 1       • Issues identified by the parties' respective experts.

2           **D. Electronically Stored Information**

3       The parties have agreed that disclosure or discovery of electronically stored  
4 information (ESI) should be handled as follows:

5           (i) Documents produced electronically shall be produced in either  
6 PDF or TIFF format. Individual documents shall be produced as  
7 separate PDF or TIFF files and each file shall be OCR'd to the  
8 extent possible and individually bates labeled. Whenever possible,  
9 the parties shall maintain all produced information in native format  
10 with accompanying metadata. Should a party receiving production  
11 determine that it needs a document in native format, or that it needs  
12 additional metadata for a specific document, it shall notify the  
13 producing party of that fact and the parties shall meet and confer in  
14 good faith to resolve the request. The parties further agree that they  
15 will meet and confer regarding any other electronic discovery  
16 disputes.

17       The ESI shall be produced on DVDs.

18           (ii) Discoverable documents existing in paper form (irrespective of  
19 whether it is claimed that duplicates exist in electronic form) shall  
20 be produced as paper copies, upon request, in the same size and  
21 color as the original. In such instances, the production shall include

1 copies of file labels or other information, to the extent such  
2 information exists, that could assist in identifying how and where  
3 such documents were kept in the ordinary course of business.  
4

5 (iii) The parties are maintaining holds on the hard drives and  
6 servers of all persons and systems believed to have discoverable  
7 documents and shall preserve such holds pending the final  
8 judgment in this litigation.  
9

10           **E. Claims of Privilege and/or Protection**

11           The parties are meeting and conferring regarding a proposed protective order  
12 and will endeavor to submit an agreed-to form of order to the Court for  
13 consideration.  
14

15           **G. Limitations**

16           The parties do not believe any applicable limitations should be changed, nor  
17 do they believe any additional limitations should be imposed. The parties agree  
18 that discovery will be conducted in fact and expert phases.  
19

20           **H. Proposed Case Schedule**

21           The parties propose the following deadlines for discovery in this case:  
22

- 23           • Asserted Claims and Infringement Contentions and associated  
24           document production – February 10, 2014
- 25           • Invalidity contentions and associated document production – March  
26           27, 2014
- 27           • Exchange proposed claim construction terms – April 10, 2014
- 28           • Exchange preliminary claim constructions and supporting references –  
May 1, 2014

- Joint Claim Construction and Prehearing Statement – May 26, 2014
  - Close of claim construction discovery – June 25, 2014
  - Opening claim construction briefs – July 10, 2014
  - Claim construction response briefs – July 24, 2014
  - Claim construction reply briefs – July 31, 2014
  - Close of non-expert discovery – October 31, 2014.
  - Deadline for expert reports on topics on which submitting party bears the burden of proof – November 21, 2014
  - Deadline for rebuttal expert reports – December 19, 2014
  - Close of expert discovery – January 23, 2015
  - Last day for hearing of motions (other than motions *in limine*), including dispositive motions – March 9, 2015
  - Proposed Pre-Trial Conference date – May 18, 2015
  - Proposed Trial date – June 15, 2015
  - Suggested length of trial – 4 days

## I. Dispositive Motions

The parties each anticipate potentially filing summary judgment motions, but are not yet prepared to identify the specific topics to be covered in such motions.

## J. Settlement Discussions

Counsel for the parties have briefly discussed settlement of this matter, as well as two other ongoing litigations between the parties, *Luv N' Care, Ltd., et al. v. Munchkin, Inc.*, Case No. 2:12-cv-00228-SAS in the United States District Court for the Southern District of New York and *Munchkin, Inc. v. Luv N' Care, Ltd, et al.*, Case No. 2:13-cv-06787-JEM in the United States District Court for the Central District of California. The parties have also discussed a settlement mechanism pursuant to Local Rule 16-15, *et seq.* and agree that they will ask the

1 Court to appoint a Magistrate Judge to act as mediator for these matters at the  
2 appropriate time.

3           **K. Trial by Jury**

4           The Parties agree that trial will be by jury.

5           **L. Additional Issues**

- 6           • The Parties agreed that this is not a complex case.
- 7           • The Parties do not anticipate adding any additional parties to this case.
- 8           • The Parties do not currently anticipate any need to amend the  
9            pleadings.
- 10          • The dates proposed herein by the Parties reflect accommodation for  
11            the dates recently set for the other litigation between the parties that is  
12            currently pending in the Central District of California before  
13            Magistrate Judge McDermott. The Parties are not aware of any other  
14            issue affecting the status or management of the case.
- 15          • The parties agree that no unusual legal issues are presented by this  
16            case.
- 17          • The parties do not believe that severance, bifurcation or any other  
18            proposal for ordering proof is appropriate for this case.

19  
20           Dated: January 13, 2014

LATHROP & GAGE LLP

21  
22           By: /s/ Jeffrey Grant  
23           R. Cameron Garrison  
24           John Shaeffer  
25           Jeffrey Grant  
26           Petty Tsay Radar  
27           Attorneys for Plaintiff  
28           MUNCHKIN, INC.

1 Dated: January 13, 2014

PAYNE & FEARS LLP

2 By: /s/ Eric Kennedy

3 Eric Kennedy

4 Attorneys for Defendants

5 LUV N' CARE, LTD. and ADMAR  
INTERNATIONAL, INC.

6

7 **SIGNATURE ATTESTATION**

8 Pursuant to Civil L.R. 5-4.3.4, I hereby attest that concurrence has been  
9 obtained from Eric Kennedy, counsel for Defendants, indicated by a  
10 “conformed” signature (/s/) within this e-filed document.

11 By: /s/ Jeffrey Grant

12 Jeffrey Grant